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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,513	01/11/2001	Rainer Ludwig	HOE522	8395

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01/02/2003

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EXAMINER

MCCLLOUD, RENATA D

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758,513

Applicant(s)

LUDWIG, RAINER

Examiner

Renata McCloud

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-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/21/2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 39 is/are rejected.
- 7) ☒ Claim(s) 11-38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. In response to the amendment filed on 21 October 2002, paper 12, the following has occurred:

(a) Claim 2 has been cancelled and claim 39 has been added. Now claims 1, and 3-39 are present for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, and 3-10 are rejected under 35 U.S.C. 102 (a). This rejection is set forth in prior Office Action, Paper No. 10.

4. Claim 39 is rejected under 35 U.S.C. 102(a) as being anticipated by Huber et al (U.S. Patent 6,130,516).

Huber et al teaches monitoring device for checking for a predefined position of a body or for checking for the presence of a body with a pivotal checking element (e.g. Fig. 1, #34), a motor with a shaft for driving the checking element (e.g. Fig. 1, #20 and #26), a housing for accommodating the motor and having an end face through which the shaft passes (e.g. Fig. 1, #16), and a seal between the checking element and the end face of the housing around the shaft

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(e.g. Fig. 1, the area between #28 and #30 is a seal and is between checking element #34 and housing #16), wherein the seal abuts on the checking element and abuts on the end face of the housing (e.g. Fig. 1, the area between #28 and #30 is a seal abuts checking element #34 and housing #16).

Claim Objections

5. Claims 11-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 10/21/2002 have been fully considered but they are not persuasive. In response to the applicant's argument, with respect to claim 1, that the Huber '516 patent does not disclose a seal between a checking element and a housing around a shaft by means of which the checking element is driven, the applicant is asked to refer to the area around reference number 30 in Figure 1 of the Huber '516 patent. The seal being referred to by the Office is the area between reference numerals 28 and 30. This seal is between the pin holder (32) having a pin (34) and the housing (16). This seal also abuts the checking element and the housing.

In response to the applicant's argument with respect to claims 3-7, and 10, the applicant's argument has been considered but is moot in view of a seal has having been identified above.

In response to the applicant's argument, with respect to claim 8, that the Huber '516

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patent does not disclose a mounting element formed by a mounting ring through which the shaft is guided and onto which the seal is adapted, the applicant is asked to refer to Fig. 1, # 32. As seen in Fig. 1, the pin holder (32) is a mount for the pin (34) and is formed from the mounting ring (ring around (32)), through which the shaft (26) is guided and the seal (described above) is adapted to be put.

In response to the applicant's argument, with respect to claim 9 that the Huber'516 patent does not disclose that an annular recess for accommodating the seal is formed between the mounting element and the seal, the applicant is asked to refer to Fig. 1. The area between the seal (the area between (28) and (30)) and the mounting element (32) shows an annular recess.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (703) 308-1763. The examiner can normally be reached on Mon.-Thurs and every other Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Renata McCloud
Examiner
Art Unit 2837

RDM
December 30, 2002


SHIH-YUNG HSIEH
PRIMARY EXAMINER